

REMARKS

The Office Action dated January 29, 2007 has been received and considered. In this response, claims 1, 5, 16, 22-25, 28, and 42 have been amended and claims 57, 58, 59 have been added. Support for the amendments and new claims may be found in the specification and drawings as originally filed. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the following remarks.

Rejection of Claims 42-54 and 56 Under 35 U.S.C. § 101

At page 2 of the Office Action, claims 42-54 and 56 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. This rejection is hereby respectfully traversed.

The Office Action bases the Section 101 rejection on two premises. First, according to the Office Action at pages 2-3, claims 42-54 and 56 do not recite statutory subject matter because “data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory.” Applicant respectfully disagrees that the claims are not directed to statutory subject matter. As a first issue, claims 43-54 and 56 are claimed as embodied in a computer readable medium. Claim 42, from which claims 43-54 and 56 depend, specifically recites a “computer readable medium, said computer readable medium including instructions to manipulate a processor to” perform the actions set forth in the claims. Accordingly, even assuming *arguendo* that the Office Action’s characterization of the requirements under Section 101 is correct, claims 42-54 and 56 satisfy those requirements.

In addition, Applicant respectfully disagrees that claims 42-54 and 56 are directed to a data structure as indicated by the Office Action. Claim 42 recites instructions to access stored video content stored at a server, instructions to identify a first portion of the stored video content, and instructions to provide content associated with the first portion of the stored video content to a remote device. Thus, claim 42 is not directed to a data structure, but instead is directed to instructions for identifying and providing video content. Accordingly, claims 42-54 and 56 are directed to statutory subject matter under Section 101.

The second premise of the Section 101 rejection, according to the Office Action at page 3, is that “the instant application discloses that a ‘computer readable medium’ may be a signal (IA: Page 18, Line 25 – Page 19, Line 6).” Applicant respectfully disagrees with this assertion. The cited portion of the specification does not disclose that a signal is a computer readable medium, but instead that instructions can be read from a computer readable medium **and then transmitted via a signal**. Thus, the specification does not indicate that a signal is a computer readable medium, but instead discloses that a signal can transmit instructions that have been stored on a computer readable medium.

In view of the forgoing, Applicant respectfully submits that the rejection of claims 42-54 and 56 is improper. Withdrawal of the rejection and reconsideration of the claims is respectfully requested.

Anticipation Rejection of Claims 1-13, 15-25, 27-39, 41-54 and 56

At page 3 of the Office Action, claims 1-13, 15-25, 27-39, 41-54 and 56 are rejected under 35 U.S.C. § 102(e) as being anticipated by Begeja et al. (U.S. Publication No. 2003/0163815 A1). This rejection is hereby respectfully traversed.

With respect to claim 1, the claim has been amended to recite “identifying a first portion of the stored video content based on the closed captioning content and based on a bandwidth capability of a remote device.” Independent claims 28 and 42 have been amended to recite similar elements. These elements are not disclosed by Begeja. In particular, Begeja does not disclose identifying a portion of stored video content based on a bandwidth capability of a remote device. Begeja refers to providing video in a format based on available bandwidth (Begeja, paragraph [0090]), but does not disclose **identifying** the video content based on the bandwidth capability of a remote device. Accordingly, Begeja fails to disclose each and every element of claims 1, 16, 28, and 42.

Claims 2-13 and 15 depend from claim 1. Claims 29-39 and 41 depend from claim 28. Claims 43-54 and 56 depend from claim 42. Accordingly, Begeja fails to disclose each and every element of these dependent claims, at least by virtue of their respective dependency on claims 1, 16, 28, and 42. In addition, the dependent claims recite additional novel elements.

With respect to claim 16, the claim recites “providing content associated with the first portion of the stored video content to the remote device based on a set of user-specific parameters.” These elements are not disclosed by Begeja. In particular, Begeja does not disclose providing video content based on user-specific parameters, but instead discloses providing video content in a particular format for a variety of users. See Begeja, paragraphs [0061]-[0062].

Claims 17-25 and 27 depend from claim 16. Accordingly, Begeja fails to disclose each and every element of these claims, at least by virtue of their dependence on claim 16. In addition, these claims recite additional novel elements.

In view of the forgoing, it is respectfully submitted that the anticipation rejection of claims 1-13, 15-25, 27-39, 41-54 and 56 is improper. Withdrawal of the rejection therefore is respectfully requested.

Conclusion

The Applicants respectfully submit that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

The Applicants believe no additional fees are due, but if the Commissioner believes additional fees are due, the Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-0441.

Respectfully submitted,

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